

ORDINANCE 2008 - 17

ORDINANCE TO AMEND CHAPTER 8 OF THE  
LAPORTE COUNTY CODE  
ZONING AND SUBDIVISION CONTROL

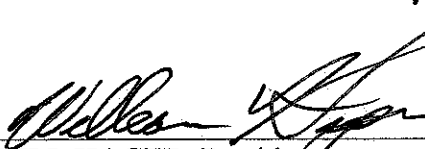
WHEREAS, LaPorte County Plan Commission has conducted a public hearing regarding amendments to the LaPorte County Zoning and Subdivision Control Ordinance; and

WHEREAS, the Plan Commission has recommended that the amendments made be accepted and approved.

NOW THEREFORE be it ordained by the LaPorte County Board of Commissioners that:

1. The amendments to the LaPorte County Zoning and Subdivision Control Ordinance are hereby approved as Exhibit "A".
2. That such amendments shall be effective on October 1, 2008
3. That all other parts of such Ordinance in conflict herewith are rescinded and all other parts of such Ordinance not otherwise amended shall remain in full force and effect.

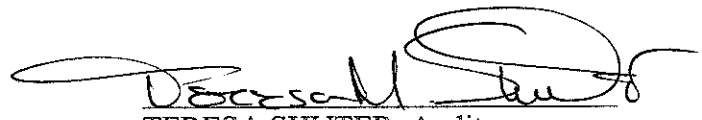
DATED this 16th day of September, 2008.

  
BILL HAGER, President

  
MIKE BOHACEK, Vice President

  
BARBARA HUSTON, Member

ATTEST

  
TERESA SHUTER, Auditor  
10/9/08

## **PROPOSED CHANGES AND AMENDMENTS**

### **ARTICLE III, RULES AND DEFINITIONS**

#### **ADDITIONS AND/OR CORRECTIONS**

**ADDITIONS/CORRECTIONS.** Add or correct the following definitions.

**AUTO STORAGE YARDS.** Any partial or combination of partials on the same ownership or interlocking ownership that has seven (7) or more vehicles located thereon, all open to view by the public, whether or not such vehicles are licensed or operable and regardless of whether such vehicles are owned by the same person and such vehicles have been there more than thirty (30) days.

**DWELLING.** A permanent building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings and multiple-family dwellings but not including hotels or lodging houses. Such building must be at least twenty three (23) feet wide and have Nine Hundred Fifty (950) square feet of living space excluding basements, breezeways, porches and garages.

**FARM/HOBBY.** A parcel of land less than fifty (50) acres in size used primarily as a residential lot whereas some crops or animals may be raised or kept for pleasure and not used as a primary source for income.

**JUNK YARDS:** A tract of land, including any accessory structure thereon that is used for buying, selling, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery and equipment not in operable condition, and metals, glass, paper, plastics, rages and rubber tires. A lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. A junkyard includes an automobile wrecking yard.

OUTDOOR STORAGE YARD: A parcel of land including any accessory structure thereon used for collecting, storing, or sale of waste paper, scraps, rags, scrap metal, rubber tires, bottles, or discarded materials or materials which are from by-product materials of a permitted use as well as any accumulation of any vehicles, whether operable or inoperable, farm machinery or any other similar debris items that are piled or stacked greater than 6' in height in an area greater than one half acre. Such definition does not include outdoor storage of farm equipment or equipment used regularly in the active operation of a farm.

RECYCLING FACILITIES. A building or area in which used materials, to include metal, glass, wood, rubber, steel, alloy, copper, paper, cardboard, plastic or other similar materials in which such materials are separated and processed prior to shipment to others who use those materials to manufacture other products. Process means to be ground, crushed, baled, boxed or in some other way bound.

RESIDENTIAL PARCEL/LOT. A parcel or tract ten (10) acres or less in size on which there is or will be a residential dwelling.

SUBDIVISION. The division of a parcel or tract of land into two (2) or more parcels, ten (10) acres or less in size for residential purposes.

SUBDIVISION, MAJOR: A division of a parcel or tract of land into three (3) or more residential parcels that involves the creation of additional streets.

SUBDIVISION, MINOR: The subdividing of a parcel or tract of land to create three (3) or more contiguous parcels for residential purposes on frontage lots without creating additional streets or easements of access.

SUBDIVISION, STRIP: A division of land which creates three (3) or more contiguous residential parcels on frontage lots.

WIND ENERGY CONVERSION SYSTEM: The equipment required that converts, stores and then transfers energy from wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wire or other component used in the system.

WIND SYSTEM; LARGE: A WECS that has a manufacturers rating of 50 kilowatts per wind tower, or a total height of more than 140' or a swept area of more than 40'.

WIND SYSTEM; MICRO: A building mounted wind system that has a manufacturer's rating of 10 kilowatts or less, and projects no more than 15' above the highest point of the roof.

WIND SYSTEM; SMALL: A WECS that has a manufacturer's rating less than or equal to 50 kilowatts per wind tower, and a total height of 140' or less, and a swept area of 40' or less.

WIND TOWER: The monopole or freestanding structure that supports the energy capture, conversion, storage and transfer components of a Wind Energy Conversion System. Such definition does not include a farm windmill as commonly known so long as such windmill height does not exceed 55'.

WIND TOWER HEIGHT: The total height of a wind tower is measured from the distance from the ground level of the base of the tower to the highest extension of the blades.

#### ARTICLE IV, DISTRICTS, USES AND MAPS.

##### AMENDMENTS.

Amend SECTION 8-6, ESTABLISHMENT OF DISTRICTS

USES PERMITTED IN EACH DISTRICT: Table 1, entitled "Official Schedule of Uses" details the uses permitted in each district. Any use that is not listed in the official schedule of uses or not specifically listed in the zoning ordinance or covered by any definition, then the category of such use shall fall under the category of other similar uses and the more restrictive application shall apply.

Amend SECTION 8-7, Use Requirement to read as follows:

**SECTION 8-7; RESIDENTIAL USE DEVELOPMENT**

a. **DEVELOPMENT OF RESIDENTIAL PARCELS.** Residential parcels may only be developed in accordance with these provisions or in accordance with the subdivision control ordinance.

b. **PARENT PARCEL OR TRACT.** A parent parcel or tract is a parcel or combination of parcels which are contiguous and under the same common ownership.

1. A parent parcel may not be further split or divided for residential purposes for seven (7) years after the original purchase.

2. A parent parcel may be divided into additional residential parcels under the following scale:

One residential parcel for each 30 acres up to 150 acres. An additional residential parcel for each 50 acres above 150 acres.

3. Development of such residential parcels may be done individually or as a combination of residential parcels with the minor subdivision.

4. For each additional parcel to be developed pursuant to the sliding scale for an additional parcel, such additional acreage must have at least 1/3 of the next higher acreage for the development of an additional lot (i.e.) 40 plus acres for two (2) lots; 70 plus acres for three (3) lots.

c. **RESIDENTIAL USE REQUIREMENTS.** The following use requirements pertain to all residential uses.

1. **Minimum lot size.** A lot on which a dwelling is erected or changed may not be smaller in area than that prescribed for it by Table II.

2. The minimum lot size described in Section 8-8-A Table II pertains to land which has been subdivided in accordance to the standards of the current LaPorte County Subdivision Control Ordinance. No dwelling or

structure shall be erected on a parcel of land less than one (1) acre unless said parcel has been subdivided or a variance granted for a smaller parcel.

3. Lots of record as of 1964 may be smaller in area than the figure described in Section 8-7-B provided however that such lot may not be smaller than 10,000 buildable square feet.

4. The minimum frontage requirements for residential lots and parcels not otherwise subdivided shall not be less than Two Hundred (200) feet and a depth to width ratio shall not be greater than 5 to 1.

5. The width of the residential lot at any point shall not be less than its frontage.

6. Residential parcels may not be located closer to a confined feeding operation than provided by the CAFO Ordinance.

7. Residential parcels not in conformity with this Ordinance or the Subdivision Control Ordinance must be separated by at least 600 feet if located on the same side of the road.

d. RESIDENTIAL PARCEL SURVEYS. All newly created residential parcels must have a limited topographical survey showing a drainage plan and site plan for buildings and driveways.

e. PARENT PARCEL FRONTAGE LIMITATIONS. The parent tract or parcel from which any newly created residential parcel has been created must have at least 200 feet of contiguous frontage remaining and the width at any point shall not be less than its frontage.

f. RESIDENTIAL PARCEL PLACEMENT LIMITATIONS. Residential parcels may only be developed on county roads that are part of the County Road inventory only and are paved.

g. A parcel or tract of land may not be divided to more than two (2) contiguous residential parcels, including if applicable, parent parcel or tract.

#### OFFICIAL SCHEDULE OF USES. (Table I)

#### AMENDMENT/ADDITIONS.

Item 9 Planned Unit Developments permitted uses are R1, R2, R3, LB, GB.

Item 9-A Major Subdivision; R1, R2, R3, LB.

Item 9-B Minor Subdivision; R1, R2, R3, LB, AG.

Item 26. Bottled gas storage and distribution, liquid fertilizer storage and distribution (commercial) permitted as listed.

- Item 33. Concrete, gravel crushing. Special exception, I or IR.
- Item 35. Mineral Extraction, Borrow Pit, Top Soil Removal and Storage Areas permitted in AG, special exception in I and IR.
- Item 37. Radio; television; cell; wind tower farms are prohibited use in all zones except special exceptions in I, IR and AG.
- Item 39. Salvage/junk yard/outdoor storage area.
- Item 42. Truck Freight Terminal, Truck Maintenance Storage area/Truck Stop permitted in I, special exception in IR.
- Item 52. Public Park (delete recreational facility, permitted as listed).
- Item 68. Farm, Industrial, Utility and Lawn and Garden Equipment Sales and Services change to special exception in AG.
- Item 91. Delete 91 in its entirety (private recreational development) (Covered by Item 88 and 90). Add to 90 to read Outdoor Commercial Recreational Enterprise/Public Camp/Travel Trailer Park.
- Item 93. Riding Stable, add as permitted use in AG.
- Item 125. Kennel, change to add permitted use in AG.
- Item 129. Mobile Home Park, special exception in R3 and in general business.
- Item 138. Veterinary Hospital for small animals permitted in AG.

Amend Table III, Maximum Building/Structure Height by changing 25 to 45 and 35 to 55 and any non-residential structures to be no greater than 55 feet.

#### SECTION 8-18 VARIANCES AND SPECIAL EXCEPTIONS.

a. Variance of use shall be characterized as a variance which authorizes a use of land other than permitted in a particular district by ordinance or a variance that changes the character of the zoned district by permitting an otherwise prohibited use. Use variances if granted are personal in nature and do not run with the land.

b. A variance from developmental standards shall be characterized as a variance which authorizes deviations from restrictions upon construction placement buildings and structures or a variance that involves such matters such as set back lines, frontage requirements, height limitations, lot size restrictions, density regulations and yard requirement. *These variances once granted run with the land and are transferable.*

8-18 C (7) delete f and g.

8-18 (C-7-D) The special exception may be subject to any additional requirements of any other administrative body concerning the obtaining of appropriate permits, a copy which must be provided to the Secretary of the Board.

8-18 (C-7-E) Special Exception use shall be personal in nature and not transferable. Special Exceptions regarding developments shall run with the land and are transferable.

8-18(D) TIME LIMITS. Once granted, any variance whether use or developmental standards or special exception must be implemented or acted upon within one (1) year from the time the Board of Zoning Appeals grants such variance or special exception. Failure to implement or act upon such special exception within the one (1) year will automatically create a vacation of such variance or special exception.

ADDITIONAL AMENDMENT. Amend Section 8-21, Recreational vehicles/travel trailers.

Amend D to read as follows: Any person in violation of the provisions of this Section will have twenty-four (24) hours to remove such recreational vehicle/travel trailer once notified of the violation. Failure to do so will subject the individual to fines and penalties as specified by this Ordinance.

## 8-22 PAGING TOWERS/WIRELESS COMMUNICATIONS PLACEMENT/CELL TOWERS

### A. General Provisions

#### 1. Terms

- a. The term "tower" shall refer to a wireless communications tower and the term "antenna" shall refer to a wireless communications antenna.

#### 2. Requirements

The following requirements apply to all wireless communications facilities regardless of location and are to be supplemented with the specific requirements as set forth below:

- a. The location of any wireless communications tower and accessory equipment building(s) shall comply with other applicable standards of the Zoning Ordinance not specifically indicated in this Section, including but not limited to those for flood plains and wetlands.
- b. All wireless communications facilities shall be fully automated, shall not require attention on a daily basis, and shall be visited only for periodic and necessary maintenance or emergencies.



## SECTION 8-24; CONCENTRATED ANIMAL CONTROL FEEDING OPERATIONS

### A. DEFINITIONS

#### *"Animal Feeding Operation, AFO"*

A lot or facility, other than an aquatic animal production facility, where both of these conditions are met:

1. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period; and
2. Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over at least fifty percent (50%) of the lot or facility.

*Reference 327 IAC 5-4-3(b)(3)*

#### *"Concentrated Animal Feeding Operation, CAFO"*

An AFO that stables or confined as many as or more than the number of animals specified in any of the following categories. Two (2) or more AFOs under common ownership are considered to be a single CAFO, if the AFOs adjoin each other or use a common area for land application of manure, litter, or process wastewater.

- a. Seven hundred (700) mature dairy cows, whether milked or dry.
- b. One thousand (1,000) veal calves.
- c. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle include, but are not limited to, heifers, steers, bulls, and cow/calf pairs.
- d. Two thousand five hundred (2,500) swine each weighing fifty-five (55) pounds or more.
- e. Ten thousand (10,000) swine each weighing less than fifty-five (55) pounds.
- f. Five hundred (500) horses.
- g. Ten thousand (10,000) sheep or lambs.
- h. Fifty-five thousand (55,000) turkeys.
- i. Thirty-thousand (30,000) laying hens or broilers, if the AFO uses a liquid manure handling system.
- j. One hundred twenty-five (125,000) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system.
- k. Eighty-two thousand (82,000) laying hens, if the AFO uses other than a liquid manure handling system.
- l. Thirty-thousand (30,000) ducks, if the AFO uses other than a liquid manure handling system.
- m. Five thousand (5,000) ducks, if the AFO uses a liquid manure handling system.

*Reference 327 IAC 5-4-3(b)(4) & 5-4-3(b)(7)*

#### *"Shall"*

Means that the requirement is mandatory, rather than optional.

#### *"Non-Farm Residence"*

An occupied dwelling or house located in Agriculture Zoned Property that is not controlled by the owner and/or operator of a CAFO.

### "Waste Management System"

Any method of managing manure at a site, including: 1) manure storage structure, 2) manure transfer system, 3) manure treatment systems, such as a constructed wetland, vegetative management system, or wastewater treatment system, 4) feedlot, 5) confinement building, 6) waste liquid handling, storage, and treatment system. *Reference 327 IAC 16-2-44*

## B. DEVELOPMENT STANDARDS

### CONFORMANCE REQUIREMENTS

A Concentrated Animal Feeding Operation (CAFO) shall meet all applicable requirements of the Federal, State or Local government. In addition, CAFO applicants shall meet the following requirements.

1. Obtain a pre-application permit from the Building Commission of LaPorte County prior to the submission of a permit application for approval from the Indiana Department of Environmental Management (IDEM).
  - a. A pre-application permit shall be granted to the CAFO upon submittal of the application to the Building Commission if the CAFO ordinance requirements are met.
  - b. A CAFO is a "proposed" CAFO, for purposes of this ordinance, when a pre-application permit is submitted.
  - c. A CAFO is an "existing" CAFO, for purposes of this ordinance, when approval and a permit from IDEM is issued.
2. CAFO waste management system, compost facility, and mortality staging shall not be within 220 feet of any county road centerline. Any other developed portions of the facility shall abide by existing zoning setbacks for like structures.
3. The minimum lot size on which a CAFO shall be permitted is 10 acres.
4. CAFOs shall only be allowed on agriculturally zoned property.
5. A CAFO waste management system, compost facility, and mortality staging shall not be located within 100 feet of any side or rear property line unless permission for a reduced setback is granted by the adjoining landowner.
6. Adequate truck loading areas and access shall be provided. Ingress and egress shall be designed to avoid creation of traffic hazards and congestion, odor, dust, noise or drainage impacts.
7. All CAFOs shall obtain a "Route Permit" from the County Highway Department.
8. A copy of the Indiana Department of Environmental Management approval shall be submitted to the Building Commission prior to receiving a building permit.

c. **ODOR SETBACKS**

1. Minimum setback for any CAFO waste management system from non-farm residences shall be as follows:
  - a. 750 feet as long as the CAFO includes three (3) odor controls prior to the start-up of the operation.
  - b. 1,000 feet as long as the CAFO includes two (2) odor controls prior to the start-up of the operation.
  - c. 1,320 feet as long as the CAFO includes one (1) odor control prior to the start-up of the operation.
  - d. 1,570 feet when the CAFO does not include any odor control prior to the start-up of the operation. Operations that do not include odor controls shall increase the minimum setback by 250 feet for each multiple greater than one (1) (rounded up to the nearest whole number), above the animal numbers required to be a CAFO.  
(i.e. A dairy with 700 mature cows without odor controls would require a 1,570 foot setback; A dairy with 1,500 mature cows without odor controls would require a 1,830 foot setback;  $\{[1,500-700]/700 - 1 = 0.14$ , round up to 1, 1,570 feet +  $[1 \times 250 \text{ feet}]$ ).
  - e. Odor controls include, but are not limited to, the controls listed in Table 1. Proven odor controls are listed in Table 1 for reference. Other proven odor controls not listed in Table 1 may be used to determine the required setback.

*Table 1: Proven Odor Controls*

Diet manipulation/Feed additives	Liquid/solid separation
Shelterbelts	Anaerobic treatment lagoon
Vegetation screens	Anaerobic digester
Windbreak walls	Manure storage surface aeration
Biofilters	Reduced anaerobic lagoon loading rate
Biomass filters	Aerobic treatment
Air filters	Ozonation
Aerodynamic deduster (air cleaner)	Urine/feces segregation
Wet scrubber (ventilation air)	Permeable covers (i.e. geotextile)
Catalytic converter	Impermeable covers
Vegetable oil spray (dust control)	Pit additives (i.e. biological, chemical)

2. A new CAFO shall not locate the waste management system within a 1-mile buffer from the city limits of the cities of LaPorte, Michigan City, and Westville.
3. An active animal feeding operation (AFO) that expands such that it is defined as a CAFO shall not locate a new waste management system within a 1-mile buffer from the city limits of LaPorte, Michigan City, and Westville or any closer than the setback between an existing waste management system and the city limits of LaPorte, Michigan City, and Westville (whichever is least restrictive).
4. A new CAFO shall not locate the waste management system within a minimum of 1,570 feet or the prescribed setback from a non-farm residence required by this ordinance (whichever is greater) of an incorporated city or town limits.

5. An active animal feeding operation (AFO) that expands such that it is defined as a CAFO shall not locate a new waste management system within a minimum of 1,570 feet, the prescribed setback from a non-farm residence required by this ordinance, or any closer than the setback between an existing waste management system and the city or town limits of a incorporated city or town (whichever is least restrictive).
6. If the setback between an existing CAFO and non-farm residence is less than the setback prescribed in subsection (a) above, the existing CAFO may expand at the same location provided the new or expanded waste management system does not reduce the existing setback between the CAFO waste management system and non-farm residence unless written permission is given by the owner of the non-farm residence.
7. An existing AFO proposing to expand such that after the expansion it would be defined as a CAFO may expand at the same location provided the following:
  - a. If the setback between the existing AFO and non-farm residence is less than the setback prescribed in subsection (a) above, the existing AFO may expand at the same location provided the new or expanded waste management system does not reduce the existing setback between the AFO waste management system and non-farm residence, unless written permission is given by the owner of the non-farm residence.
  - b. If the setback between the existing AFO and non-farm residence is greater than the setback prescribed in subsection (a) above, the existing AFO may expand at the same location provided the new or expanded waste management system location maintains the setback distances prescribed in subsection (a) above, unless written permission is given by the owner of the non-farm residence.
8. A newly constructed non-farm residence shall not be located within the required setback by subsection (a)(4) of Section III of this ordinance from an existing or proposed CAFO waste management system for the number of animals at the existing or proposed CAFO. The minimum setback shall be 1,570 feet.
9. If a variance is granted by the BZA for a non-farm residence from the setback standards of this ordinance, the party obtaining the variance shall be required to enter into the following covenant protecting the CAFO's right to operate:

*"In accepting this deed, grantees acknowledge that surrounding land is agricultural in usage; and grantees, and their successors in interest, are precluded from attempting to enjoin any farm operation within the prescribed setback of [(required setback)] required by the LaPorte County Concentrated Feeding Operation Ordinance because of nuisances which might result from said operation."*
10. If a variance is granted for a new subdivision development in an agriculturally zoned property there shall be a condition of receiving a variance, the grantee must sign and agricultural clause that must be accompanied by a deed restriction to successive owners:

*"Grantee/Owners of said lot(s) and their successors in title are on notice and understand that this residence/subdivision will be built in a predominantly agricultural area and that farming operations, to include animal feeding operations and other livestock operations, may be practiced in the area of this residence/subdivision. With this understanding, grantee/all owners of the lot(s) in this subdivision and their successors in title forego their right to bring claim against any agricultural operation in the area who has not been negligent."*

D. SETBACK EXCEPTIONS

1. Grandfathered Non-conforming Uses. Any existing CAFO legally established prior to (date of adoption), 2007, shall be considered legal non-conforming use.
2. A non-farm residence may agree to a reduced setback between a new or expanding CAFO and the non-farm residence. A written agreement between the non-farm residence and CAFO must be filed with the Building Department prior to the issuance of a building permit.

E. ENVIRONMENT PROTECTION

1. The operator of a new, expanding, or existing CAFO shall comply with all State laws and rules, including the laws and rules administered by IDEM and with any permits granted by IDEM.
2. All applicants who have or had ownership in any CAFO/AFO in the State of Indiana or any other state during the five years prior to the date of obtaining a pre-application permit must not have any unresolved violations with the Indiana Department of Environmental Management or any other corresponding or comparable local, state or federal regulatory agency. All such outstanding violations must be resolved before a building permit will be issued by the Building Commission.
3. CAFOs shall abide by 312 IAC 12 Water Well Drilling and Ground Water and register all wells capable of withdrawing over 100,000 gallons per day or 70 gallons per minute with the Department of Natural Resources.
4. A CAFO shall follow all manure application rules as defined in their IDEM permit and in accordance with their manure management plan.
5. A CAFO/AFO shall not locate any portion of the waste management system within the one hundred (100) year frequency flood plain unless a Federal Emergency Management Agency, National Flood Insurance Program "Floodproofing Certificate" for non-residential structures is provided and the waste management system access is at least two (2) feet above the one hundred (100) year flood base elevation. *Reference 327 IAC 16-8-1(a)(3).*
6. Groundwater test wells shall be required of all new approved 100-year floodplain CAFO sites. Placement, number, and depth of these systems shall be determined by a licensed engineer or hydro-geologist after the groundwater directional flow is determined. Sampling and testing of these systems for nitrates and bacteria shall be performed bi-annually by the La Porte County Health Department.
7. If the La Porte County Health Department determines that surface or ground water has been or is being contaminated by the CAFO, the Health Department may order any reasonable or necessary corrective action to protect public health.

SECTION 8-25; GRANDFATHER PROVISION. Amend to read as follows:

Any use not in conformity with this ordinance in existence at the time of the adoption may continue. However, such use may not be expanded, modified or transferred without first complying with this ordinance.

- a. A use that exists on the date in which this ordinance or amendment is passed, if otherwise lawful, may be continued. A more restricted use may not be substituted. Such use may not be extended to other parts of the same building or lot or parcel regardless of whether any structural changes may or may not be required.
- b. The non-conforming use ceases to be authorized if it is discontinued for a twelve (12) month period and is not succeeded by any other non-conforming use.
- c. A non-conforming use may not be carried on at a building that is damaged, by more than half of its current assessed value, by fire, by explosion, by and Act of God or the public enemy.
- d. Any parcel of land not in compliance with 8-7 at the time of the adoption of this amendment by the LaPorte County Commissioners will have thirty (30) days after such adoption to be brought into compliance. Compliances are to have such parcel under separate title with individual sidwell and taxing key numbers.

SECTION 8-73 POLICY

ARTICLE VI. SUBDIVISION CONTROL

- a. It is hereby declared to be the policy of the County to consider the subdivision of land and the subsequent development of the subdivision plat as subject to the control of the County pursuant to the official Master Plan of the County for the orderly, efficient, and economical development of the County.
- b. Such development shall be designed to protect and provide public health, safety and general welfare in the general area in which the subdivision is located; to divide for future growth and development in the area in accordance with the comprehensive plan for the orderly development of land for residential purposes in light of its location, major thoroughfares, roadways and developments of other urban areas.
- c. Such development should be in relationship in accordance to projective growth pursuant to the comprehensive plan, preservation and green spaces and farm and their relation to other growth areas in the vicinity and with regard to the road networks connecting such subdivisions, major, county, state and federal highways.

## SECTION 8-74 LOCATION OF SUBDIVISIONS

Regardless if the area is properly zoned, such area may not be conducive for subdivision development. The Plan Commission will first consider whether the location of the subdivision will meet the following requirements as applicable regardless of such zoning. The placement of the subdivision is not to be considered automatic:

### A. MAJOR SUBDIVISIONS

1. Ingress and egress must be located on a major arterial county road capable of handling increased traffic based on width and the construction of the roadway.
2. Is capable of having two (2) entrances for ingress and egress for twenty five (25) or more building sites.
3. The subdivision will be located within two (2) miles of an existing incorporated area.
4. The development of a subdivision will not have an adverse impact on schools, fire and police protection servicing that area.
5. The development of the subdivision does not have an adverse impact on roads servicing such area.
6. Soil is suitable for such development for which there will not be an adverse impact on immediately adjacent eco systems or wetlands.
7. The development of the subdivision is within the confines and projections of the County's comprehensive plan.
8. Drainage will not have an adverse impact of roadways or surrounding areas.

### B. MINOR SUBDIVISIONS

1. A subdivision will be developed on an improved County road for which such development will not have an adverse impact on additional traffic and placement of additional driveways.
2. The development will be located within two (2) miles of an incorporated area.

## SECTION 8-75 JURISDICTION (as is)

## SECTION 8-76 INTERPRETATIONS, CONFLICT AND SEPARABILITY

Addition B. The placement of any subdivision in any area which is zoned for such sub-development is not to be considered automatic. The placement of any subdivision shall be in conformity and the determination of the Plan Commission with Section 8-73 and 8-74.

## SECTION 8-77 ESTABLISHMENT OF CONTROL

## SECTION 8-78 GENERAL PROCEUDRE

Whenever any subdivision of land lying within the jurisdiction of the Commission is proposed, before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdividing owner or his authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following procedures:

- a. Application (IC 36-7-4-703)
- b. Staff Review (IC 36-7-4-705)
- c. Plan Commission: Primary approval of location
- d. Plat Committee: Technical review for compliance with Ordinance Development
- e. Plan Commission: Final approval
- f. Recordation with the County Recorder

## SECTION 8-79: APPLICATION PROCEDURE

The subdivider shall file an application for approval of a primary plat at the Office of the LaPorte County Plan Commission.

- a. The application shall come by certified check or money order in an amount set by the Commission
- b. At the time of the application, three copies of location map, preliminary plat and any associated reports shall be filed as well as the petition and legal description of the property.
- c. A copy of the location map, preliminary plat and any reports shall be mailed to each Commission member.
- d. The application shall be filed no later than 15 prior to the Plan Commission meeting.
- e. Subdivider must provide public notice of this meeting as well as specific notice to each adjoining landowner and a certification of the adjoining landowners and their addresses showing publication and notice at least ten (10) days prior to the public hearing.
- f. Preliminary copy of proposed covenant.

## SECTION 8-80: STAFF REVIEW

Upon the submission of application for primary approval of plat the application will be reviewed by the staff of the Commission in accordance with IC 36-7-4-705, with notice of publication and provide the date for hearing as well as instruct the subdivider that notices to adjoining landowners and the publication occurs 10 days prior to the hearing.

## SECTION 8-81 PRIMARY APPROVAL

The Plan Commission will review the request for primary approval of a subdivision plat at a public hearing at its regularly scheduled meeting. Such review will be based on whether the subdivision can be placed at the location as prescribed under the comprehensive plan and Sections 8-73 and 8-74 of this Ordinance. If the location of the



plat meets the location requirements then the plat shall be forwarded to the Plat Committee for technical review. The basic lay out of the subdivision will also be considered.

The developer will provide letters to the Plan Commission from the County Highway Department; the County Health Department; the County Sheriff; the local fire department and the local school corporation. Such letters will pertain to road access and drainage; impact of the subdivision on the schools; police and fire support and service for the proposed subdivision and any septic concerns.

#### SECTION 8-82: STAFF REVIEW AND PLAT COMMITTEE ACTION

Once the subdivision location has primary approval, then the developer shall file the formal plans with the Plat Committee to insure that the subdivision plat and each individual lot meets the technical requirements of this Ordinance. The Plat Committee will review the formal plans for drainage, whether there is a need for curbs and gutters or if swales are to be used, size of the lot and anything necessary for technical completion of the final plat.

The staff will insure a check list is provided to the developer and the Plat Committee and the completed check list will be provided to the Plan Commission at final review. The check list will include at a minimum, Health Department on septic issues; Drainage Board on surface drainage; Highway Department regarding any street or road issues and road drainage; as well as any other local agencies that the staff deems necessary for the technical development of such subdivision.

#### SECTION 8-83: PLAN COMMISSION: FINAL APPROVAL

The final approval shall be granted only after it has been determined that all improvements and installations have been constructed and completed as required in this Ordinance as approved by the Plat Committee. There is no requirement that this approval be subject to a public hearing. If the Plan Commission has any questions the same may be referred back to the Plat Committee for review before final approval.

Final approval will be with the signature of the President of the Plan Commission. The plat will then be forwarded to the Commissioners for their signatures only without setting the same on the Commissioner's agenda.

#### SECTION 8 -84 RECORDATION

The plat that has received final approval from the Plan Commission must be submitted for signature with the Commissioners within 60 days of final approval. A plat that has been signed by the Commissioners must be recorded within 180 days of the Commissioner's signature. A plat that is not recorded or submitted for signature within the prescribed time period must be resubmitted to the Plan Commissioner for review to make sure it meets all the requirements of the Ordinance and is consistent with the plat as originally approved by the Plan Commission.

## SECTION 8-85 PRELIMINARY PLAT REQUIREMENTS.

The subdivider shall provide a preliminary plat to the Plan Commission which will show the manner which the proposed subdivision is to be developed. Its purpose is to assist the Plan Commission in determining how the subdivision will be placed and located and developed in accordance with the Comprehensive Plan. The purpose of the preliminary plat is to allow the Commission to have an overall review of the proposed subdivision based on its location and to make a determination whether such location is appropriate based on the criteria as provided by this Ordinance. The preliminary plat will show the general layout of the subdivision without necessarily showing the exact dimension of the lots other than the number of lots, perspective layouts and the ingress and egress so the Board can make a decision or make any adjustments to the plat as they deem appropriate.

The subdivider shall provide a preliminary plat showing as follows:

- a. Proposed name of the subdivision and location.
- b. Names and addresses of the owner, subdivider and the surveyor who prepared the plan.
- c. General layouts of lots and streets as well as ingress and egress.
- d. Contours of five feet (5') and other features or conditions that would affect the subdivision either favorable or adversely.
- e. Scale, north point and date. The primary plat of the subdivision shall be drawn to a scale of fifty feet (50') to one inch (1"); provided however that if the resulting drawing would be over thirty six inches (36") in the shortest dimension, a scale as recommended by the Commission may be used.

## SECTION 8-86 PRIMARY PLAT REQUIREMENTS

The subdivider shall provide a primary plat for the subdivision which shall show the manner in which the proposed subdivision is coordinated with the Comprehensive master Plan and its provisions, specifically with relation to the requirements of the Official Thoroughfare Plan; school and recreational sites; shopping centers; community facilities; sanitation, water supply and drainage and other developments, existing and proposed, in the vicinity; provided however that no land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider or such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography or any other feature harmful to the health and safety of possible residents and the community as a whole.

- A. A separate written report and plans which include the appropriate information must be presented to the Commission.
- B. When considering the primary plat, the Commission will require the subdivider to submit a drainage plan and petition to the LaPorte County Drainage Board to include said subdivision as an "Urban Drain" as specified in the 1965 Indiana Drainage Code, Chapter 305, Acts of 1965 amended. No subdivision which has been required to petition the Drainage Board for inclusion as an "Urban Drain"

(3) black line prints and a reproducible print shall be submitted. In addition, three (3) black or blue line prints of the plan and profile of the roads and drainage improvements shall be submitted with the original plan and profile sheet(s). Standard lettering shall be a minimum height of one-tenth (1/10) of an inch, special fonts shall be a minimum height of one-eighth (1/8) of an inch.

The following basic information shall be shown on the drawing:

1. Boundary lines with dimensions and angles which provide a survey of the tract, closing with an error of not more than one foot (1') on ten thousand feet (10,000).
2. Distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plat.
3. Locations of all existing and recorded streets intersecting the boundaries of the tract.
4. Metes and bounds description of the boundary.
5. Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.
6. Street names.
7. Complete curve notes for all curves included in the plan.
8. Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley and lot lines.
9. Lot numbers and dimensions.
10. Locations of easements for utilities and any limitations on such easement.
11. Dimensions for any property to be dedicated or reserved for public, semi-public, or community use.
12. Building setback or front yard lines and dimensions.
13. Locations, type, materials and size of all monuments and lot markers.
14. Plans and specifications for the improvements and lot markers.
15. Restrictions of all types which will run with the land and become covenants in the deeds for lots.
16. Name of the subdivision.
17. Name and address of the owner and subdivider.
18. North point, scale and date.
19. Certification by a registered land surveyor.
20. Certification of dedication of streets and public property.
21. Certificates for approval by the Commission.
22. Certificate of approval by the Commission whenever new public right-of-ways are established.
23. Notice that all disturbed lands have been stabilized.

SECTION 8-91 AS-BUILT SUBDIVISION PLANS (as listed)

SECTION 8-92 CERTIFICATES (any reference to the secondary plat shall be changed to referred to as final plat)

SECTION 8-93 BONDING REQUIREMENTS

The bond shall run for a minimum of three (3) years and may be renewed. A bond will not be released until one hundred percent (100%) of the subdivision has been completed and there is a certification of the roads as to the County's standards.

#### SECTION 8-94 FINAL SUBDIVISION ACCEPTANCE

In order to receive Final Subdivision Acceptance and return of the bond, the subdivider must present to the County Commissioners:

- a. A certification by a certified engineer or surveyor that the subdivision is one hundred percent (100%) complete, all subdivision lots have been developed and that all right-of-ways are complete and meet County standards.
- b. A certificate from the County Highway Engineer that the same requirements of (a) is complete; however if a County Highway Engineer is utilized, a fee is required as determined by the Plan Commission.

#### SECTION 8-95 INDUSTRIAL AND COMMERCIAL SUBDIVISIONS (as listed)

#### SECTION 8-96 REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL PROPERTY (as listed)

#### SECTION 8-97 VACATION OF PLATS AND RE-SUBDIVISION PROCEDURES (as listed)

#### SECTION 8-98 PUBLIC HEARING OF PLAT VACATION

- a. The Plan Commission shall hold a public hearing on the proposed vacation of the plat or part of the plat after ensuring due notice has been given to all interested parties and publication of such public hearing.
- b. The petitioner will be required to notify all adjacent property owners and other interested parties by certified mail or by receipt of notice of such public hearing.
- c. Such notice must be ten (10) days before the public hearing as well as publication within ten (10) days prior to the public hearing.
- d. The Plan Commission will make a decision regarding the vacation.
- e. An amended plat will be submitted for approval by the Plan Commission and such amended plat will then be forwarded to the Commissioners for signatures and the same will be recorded showing the vacated part of the plat. Such recordation must be followed by the recording process as prescribed in this Ordinance.
- f. A copy of the vacated plat or part of the plat shall be filed in the office of the Plan Commission and County Planner after recording so long as accurate subdivision maps are maintained.

#### SECTION 8-99 RE-SUBDIVISION PLATS (as listed)

#### SECTION 8-100 MINOR SUBDIVISION

A minor subdivision may be created from any tract or parcel subject to the restrictions as provided in Section 8-7. Minor subdivisions must meet the following requirements:

1. No less than 1 acre in size and 200' of frontage.
2. No block may be longer than 1,400'.
3. There shall be no more than 7 lots.
4. There will be no creation of additional streets or easements of access to other residential parcels.
5. All lots must be fronted on County or State roads.
6. May only be located on one (1) side of the road and only on one (1) road.
7. All plats must conform to the requirements of a major subdivision except as provided herein.
8. All plates must be approved pursuant to the major subdivision approval process.
9. No minor subdivision may be located within 1000' of another minor subdivision on the same side of the road.

#### SECTION 8-101 PRIVATE ROAD SUBDIVISIONS

A private road subdivision may be allowed subject to the discretion of the Plan Commission. At a minimum, such subdivision must provide the following:

1. Lots at least two (2) acres in size.
2. No more than fifteen (15) lots.
3. One-third (1/3) of the common area must be common green space excluding retention areas; or a portion of each lot may be included in such green space if along the property boundaries and covenants specify such area is to remain natural and un-buildable so long as one-third (1/3) of the total area is green space.
4. A covenant specifying that any roadway cannot become part of the County road system unless the subdivision property owners bring such road up to existing County road standards as specified in this Ordinance.
5. All mailboxes must be located at the entrance to such subdivision.
6. Any additional requirements as specified by the Plan Commission as necessary.

Approval of such subdivision is strictly discretionary regardless of whether the requirements as specified above have been met.

#### SECTION 8-102 SUBDIVISION VARIANCES

The Plan Commission cannot provide for technical deviations from the Subdivision Control, Commercial Subdivision Control or the plan developments. In each case, the developer must first request from the Board of Zoning Appeals the necessary variance for such technical requirements or present the development plan to the Plan Commission and before final approval from the Plan Commission such developed plan, obtained variance approval from the Board of Zoning Appeals with the recommendation from the Plan Commission to the Board of Zoning Appeals regarding the necessity of such variance.

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All requirements for such variances must follow the same rules and procedures as normally granting of a variance before the Board of Zoning Appeals.

## SECTION 8-103 MISCELLANEOUS

In addition to all specific requirements and conditions in this Ordinance regarding subdivisions, the following miscellaneous provisions however are applicable:

- a. All subdivisions must be completed within ten (10) years after being recorded. The completion of the subdivision will include all streets, gutters, retention ponds, water and sewer (as applicable) and lot layouts. This does not necessarily mean that all lots will be one hundred percent (100%) sold. If such infrastructure is not completed within such specified period of time, the subdivider may request an extension for completion from the Plan Commission. Such extension must be for a reasonable time period. Failure to ask for an extension will cause the denial of the issuance of any building permit until such extension has been approved.
- b. All roads located in the subdivision dedicated by the public will be considered as accepted upon recordation of the plat.
- c. All developers will provide road bonds to the LaPorte County Board of Commissioners as follows:
  1. If a roadway or street is not fully completed (no final asphalt coating), the developer must provide a performance bond to the LaPorte County Commissioners to insure completion of the remaining portion of the roadway. Such performance bond shall be in the amount of one hundred twenty five percent (125%) of the cost of construction for the uncompleted portion of such roadway or street. Such bond shall be for a minimum of five (5) years and may be renewed accordingly based upon the recommendation of the County Engineer.
  2. A developer who completes the paving of such roadway or street but has not completed or begun building within such subdivision, a maintenance bond must be provided to the LaPorte County Commissioners in the amount of twenty percent (20%) of the total cost of such roadway or street for a minimum period of five (5) years. Such bond is to insure against damage to such roadway or street during the building and construction phase within such subdivision. This bond must be in existence until such subdivision phase is complete or the County Engineer recommends that such roadway or street be accepted into the County Highway System.
  3. All roadway bonds with a performance of maintenance will be issued on the recommendation of the LaPorte County Highway Engineer. Bonds may be extended for an additional period of time as deemed appropriate by the Board of Commissions based upon the recommendation

of the LaPorte County Highway Engineer. Release of any bond will further be based upon the recommendation of the LaPorte County Highway Engineer.

- d. Developers shall endeavor to insure that future subdivision phases are developed with other means of access for construction equipment in lieu of use of accepted roads. Otherwise, additional bonds may be required during such continued development phases to protect the County Highway Engineer.
- e. All road or street signs in such subdivision must be in place prior to the issuance of any building permits. It is the cost and responsibility of the developer to provide for all signage. All signage must be in conformity with the LaPorte County Highway department requirements.
- f. The final acceptance by the LaPorte County Commissioners of such street or road into the County Highway system is based upon the recommendation of the Highway Engineer or certification of a certified engineer that such roadway or street meets all the requirements of the LaPorte County Subdivision Ordinance and that LaPorte County will be maintaining maintenance in such street or roadway as a County responsibility subject to any further bonding condition as provided herein.
- g. Cul-de-sac lots in a subdivision need not comply with the minimum lot frontage requirements. Such cul-de-sac lot however must have a building setback line at which the minimum lot width must be obtained.
- h. All subdivision lots must have minimum covenants to be recorded regarding the following:
  - 1. Minimum building setback lines of front, rear and sides.
  - 2. Regulation of accessory buildings regarding size and number.
  - 3. Drainage along any county right-of-way.
  - 4. Shared entrances – if applicable.
  - 5. Animal restrictions.
  - 6. Require at least a one (1) car garage.
  - 7. Minimum roof pitch requirement.
  - 8. Creation of homeowners associations for enforcement of covenants/association guidelines.
  - 9. Enforcement of covenant provisions.
  - 10. Restrictions of outside storage.
  - 11. Unusable vehicle limitations.
- i. The development of any subdivision that is not already part of or a phase of an existing subdivision so that the two (2) subdivisions are connected, such subsequent subdivision must have the same standards regarding building, lot sizes and covenants as the subdivision to which it is connected or stay the same as or greater than the standard.



- j. All plats submitted to the Plat Committee for initial review must have at least three (3) soil borings for each of the lots as specified in such primary plat for determination regarding mound system or any other septic system requirements. Mound systems are discouraged or are to be limited as determined by the Plat Committee under their recommendation.
- k. All major subdivisions will open with lots on interior streets. A major subdivision may not be developed abutting a minor subdivision or a minor subdivision abutting a major subdivision.

## SECTION 104 PLANNED UNIT DEVELOPMENT

### SECTION 8-147, SECTION E; APPROVAL PROCEDURE to read as follows:

PUD approval procedure shall follow the same approval procedure as that of a major subdivision. The preliminary review shall consist of the conceptual PUD site development plan to determine suitability. The final phase before the plan commission will include a detailed PUD plan. Lastly, the final approval will be with the Board of Commissioners and recordation prior to the issuance of building permits.

### Add SECTION 8-173. REZONING REQUEST

Any request for rezoning, the petitioner must comply with the following requirements:

- a. File a petition with the Plan Commission specifying in the property to be rezoned, including current and requesting classification; reason for the rezoning; general location to include a general address and the legal description of the property to be rezoned; a listing of the adjoining landowners as determined by the records of the Auditor of LaPorte County
- b. Provide notice to all adjoining landowners by personal delivery or certified mail at least ten (10) days prior to the hearing date and a notice of public hearing at least ten (10) days prior to the hearing.

At the public hearing the Plan Commission will consider the following criteria for such rezoning:

- a. Current condition and character of the current structure and uses in such area.
- b. The most desirable use for the land in such area based on current uses and development.
- c. Conservation of property values throughout the area.
- d. Responsible growth and development based on the current uses, location and general character in conjunction with the comprehensive plan.
- e. The location, condition and use of any roads in the area affected.
- f. Location of other similarly zoned areas.